covering such land was not deep enough to be navigable. *Winous Point Shooting Club* v. *Slaughterbeck,* (Ohio, 1917), 117 N. E. 162.

This case puts the waters of the Great Lakes and the bays and arms thereof in precisely the same class, so far as rights of hunting and fishing are concerned, as tidal waters, and navigability in fact is not a test of the right. The court also disposes of whatever uncertainty there may have arisen as a result of *Bodi* v. *Winous Point Shooting Club,* 57 Oh. St. 226, as to the right of the public to fish in navigable, non-tidal *streams* the beds of which are owned privately. The principal case interprets the earlier case as holding that in such waters there is no public right of fishing. See 16 MICH. L. REV. 37.

GIFT—ON CONDITION—ENGAGEMENT RING—RIGHT TO RETURN OF RING.—Upon her promise of marriage, the plaintiff presented the defendant with an engagement ring which she wore in the ordinary way for several months. She then broke off the engagement, whereupon the plaintiff brought suit for the recovery of the ring. *Held,* plaintiff can recover. *Jacobs* v. *Davis* (1917), 2 K. B. 532.

The court relies upon the historical development of the practice of giving engagement rings. Their conclusion is that the ring is a "pledge or something to bind the contract of marriage," and is given upon the implied condition that it should be returned if the donee should break off the engagement. Whether the ring should be considered as a pledge or a conditional gift was not expressly determined in this case, the result being the same on either theory. In *Stromberg* v. *Rubenstein,* 44 N. Y. Supp. 405, recovery of an engagement ring was denied on the ground that the defendant was an infant. The decision may be justified if we treat the transaction as a contract, but it is rather difficult to see how infancy would constitute a defense if we adopt the conditional gift theory. With regard to presents of tangible property, other than engagement rings, exchanged between parties to a marriage contract, several rather early English cases allow recovery, apparently proceeding on the theory that such presents are conditional gifts. 1 FONB. EQ., Ed. 3, 439; *Young* v. *Burrell,* Cary 77; *Robinson* v. *Cumming,* 2 Atk. 409. One case reported in 14 VIN. ABR. TIT. GIFT, pl. 7, seems to support the pledge doctrine. In *Williamson* v. *Johnson,* 62 Vt. 378, a sum of money was sent by a young man to his fiancée to enable her to buy her trousseau and to travel to his home. Although the trial court found as a fact that the money was intended as an unconditional gift, made in expectation of marriage, the Supreme Court permitted recovery. Several theories were advanced which are not wholly consistent: that it was a conditional gift; that it was not a gift in a strict legal sense, being "made in expectation and under an arrangement that they were for specific purposes," upon failure of which "the depositor" might recover; that it was a case of failure of consideration. See WOODWARD, QUASI-CONTRACTS, § 48.

GRAND JURY—MEN—WOMEN.—Defendant filed a motion to set aside an indictment upon the ground that the grand jury that found the indictment was not a legal grand jury in that it was composed of eleven men and eight wo-

men and that twelve men could not concur in the indictment. *Held,* that the word *men* as used in the CODE OF CIVIL PROCEDURE, Sec. 190, defining a jury as a body of *men* did not include *women* notwithstanding Pen. Code, Sec. 7, which provides that the words used in a masculine gender shall include women, and hence that the indictment was not found as prescribed by the CODE. *People* v. *Lensen,* (Cal. App., 1917), 167 Pac. 406.

Upon examination of the cases cited in support of the principal case it is found that in no one of them was the question raised as to the right of a woman to be a juror. *Hunnel* v. *State,* 86 Ind. 431; *Smith* v. *Times Publishing Company,* 178 Pa. 481; *State* v. *McClear,* 11 Nev. 39. In *Rosencrantz* v. *Terr.,* 2 Wash. Terr. 267, a married woman could be a grand juror under a code provision that all householders and electors shall be competent grand jurors, but this case was overruled by *Harland* v. *Terr.,* 3 Wash. Terr. 131, on the ground that the above mentioned act was void for defective title so that although the decision in *Rosencrantz* v. *Terr.,* (*supra*) is overruled, nothing is decided affirmatively in that state as to whether a women could be a grand juror. No other states have interpreted the word *men* as used in this connection. *Re Goodell,* 39 Wis. 232 and *Re Lockwood,* 9 Ct. Cl. 346, hold that *men* cannot include *women* even though, as in the principal case, there is found a provision that words importing masculine gender shall include the feminine. In *Bloomer* v. *Todd,* 3 Wash. Terr. 599, it was held that an adult citizen meant only a male inhabitant. Acts to give women the right to vote for school and city officers were held to be in violation of constitutional restrictions which give to *men* the right to vote. *Coffin* v. *Bd. of Election Commissioners of Detroit,* 97 Mich. 188; *Gougar* v. *Timberlake,* 148 Ind. 38; *Allison* v. *Blake,* 57 N. J. L. 6. But *Wheeler* v. *Brady,* 15 Kan. 26; *State* v. *Cones,* 15 Neb. 444, and *Plummer* v. *Yost,* 144 Ill. 68 hold to the contrary. But the pronouns *he* and *his* include women as well as men. So there is no statutory inhibition by the use thereof. *State* v. *Jones,* 102 Mo. 305. *Re Thomas,* 16 Col. 441. *Richardson's Case,* 3 Pa. Dist. R. 299. It may be true that the framers did not contemplate that women should be jurors. But it does not follow that they intended the contrary. The truth is that they had no intention one way or the other and that the matter was not even thought of. If it is held that the construction of the statute is to be determined by the admitted fact that its application to women was not in the minds of the legislature when it was passed, where shall the line be drawn?

HUSBAND AND WIFE—HUSBAND'S LIABILITY FOR HIS WIFE'S TORT.—Husband and wife were joined as defendants in an action for alienating the affections of the plaintiff's husband. The plaintiff admitted that the defendant husband was not a joint tort-feasor and sought to sustain a judgment which she recovered against both defendants on the ground of the husband's general liabilty for his wife's torts. *Held,* that the husband was not liable. *Claxton* v. *Pool,* (Mo., 1917), 197 S. W. 349.

The Supreme Court of Missouri found itself in an unfortunate position. The tort had been committed before the enactment of the statute freeing the husband from liability for his wife's torts, and the precedents were opposed